REGISTERED No. T. 10. REGISTERED No. M. 468

TRAVANCORE–COCHIN

GAZETTE EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. I] TUESDAY, 18th April 1950/5th Medam 1125. [No 38

Act XVI of 1950.

THE TRAVANCORE-COCHIN INDUSTRIAL DISPUTE ACT.

PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS, TRIVANDRUM—1950.

L. D. (b) 8-1418/50/Law.

NOTIFICATION.

The following Act, passed by the Legislative Assembly and assented to by His Highness the Raj Pramukh, is hereby published for general information.

By order,

Government Secretariat,
Law Department,
Trivandrum, 18th April 1950.

N. S. RADHAKRISHNA SARMA,
Secretary to Government.

Act XVI of 1950

THE TRAVANCORE-COCHIN INDUSTRIAL DISPUTES ACT.

Preamble. Whereas it is expedient to have a uniform law in the State of Travancore-Cochin for the investigation and settlement of industrial disputes and for certain other purposes;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Travancore-Cochin Industrial Disputes Act, 1950.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "award" means an interim or final determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto;

(*b*) "Board" means a Board of Conciliation constituted under this Act;

(*c*) "conciliation officer" means a conciliation officer appointed under this Act;

(*d*) "conciliation proceeding" means any proceeding held by a conciliation officer or Board under this Act;

(*e*) "Court" means a Court of Inquiry constituted under this Act;

(*f*) "employer" means—

(i) in relation to an industry carried on by or under the authority of any department of Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

(*g*) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry affected by such dispute;

(*h*) "Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, industrial occupation or avocation of workmen or the employment of workmen in the cultivation or production of tea, cardamom, coffee or rubber:

(*i*) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

(*j*) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "public utility service" means—

(i) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;

(ii) any Anchal or telephone service;

(iii) any industry which supplies power, light or water to the public;

(iv) any system of public conservancy or sanitation;

(v) any industry specified in the Schedule which Government may, if satisfied that public emergency or public interest so requires, by notification in the Gazette declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months at any one time if in the opinion of Government public emergency or public interest requires such extension;

(*m*) "settlement" means a settlement arrived at in the course of a conciliation proceeding;

(*n*) "strike" means a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

(*o*) "Tribunal" means an Industrial Tribunal constituted under this Act;

(*p*) "State," means the State of Travancore-Cochin;

(*q*) "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward, whether the employment be express or implied and for the purpose of any proceeding under this Act in relation to an industrial dispute, includes any person who has been dismissed or discharged in connection with, or as a consequence of, that dispute, or from whose dismissal or discharge that dispute has arisen.

CHAPTER II.

AUTHORITIES UNDER THIS ACT.

Works Committee.

3. (1) In the case of any industrial establishment in which thirty or more workmen are employed or have been employed on any day in the preceding twelve months, Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Travancore Trade Unions Act, 1112 (VIII of 1112) or the Cochin Trade Unions Act, III of 1112, as the case may be.

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest and concern or endeavour to compose any material difference of opinion in respect of such matters.

Conciliation officers.

4. (1) Government may, by notification in the Gazette, appoint such number of persons as they think fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Board of conciliation.

5. (1) Government may as occasion arises, by notification in the Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as Government think fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party :

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, Government shall appoint such persons as they think fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that if Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

6. (1) Government may, as occasion arises, by notification in the Gazette, constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

Courts of Inquiry.

(2) A Court may consist of one independent person or of such number of independent persons as Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that, if Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

7 (1) Government may constitute one or more Industrial Tribunals for the adjudication of industrial disputes in accordance with the provisions of this Act.

Industrial Tribunals.

(2) A Tribunal shall consist of such number of members as Government think fit. Where the Tribunal consists of two or more members, one of them shall be appointed as the chairman.

(3) Every member of the Tribunal shall be an independent person—

(a) who is or has been a Judge of the High Court or a District Judge, or

(b) who is qualified for appointment as a Judge of the High Court:

Provided that the appointment to a Tribunal of any person not qualified under part (a) shall be made in consultation with the High Court.

8. (1) If the services of the chairman of a Board or of the chairman or other member of a Court or Tribunal cease to be available at any time, Government shall, in the case of a chairman, and may in the case of any other member appoint another independent person to fill the vacancy, and the proceedings shall be continued before the Board, Court or Tribunal, so reconstituted.

Filling of vacancies.

(2) Where a Court or Tribunal consists of one person only and his services cease to be available, Government shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

(3) Where the services of any member of a Board other than the chairman have ceased to be available, Government shall appoint in the manner specified in sub-section (3) of Section 5 another person to take his place, and the proceedings shall be continued before the Board so reconstituted.

9 No order of Government appointing any person as a member of a Board, Court or Tribunal shall be called in question in any manner.

Finality of orders constituting a Board, Court or Tribunal.

CHAPTER III.

REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS.

Reference of disputes to Boards, Courts or Tribunals.

10. (1) If any industrial dispute exists or is apprehended, Government may by order in writing—

(a) refer the dispute to a Board for promoting a settlement thereof ; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

(c) refer the dispute to a Tribunal for adjudication ; or

(d) require employers or workmen to observe for such period as may be specified in the order such terms and conditions of employment as may be determined in accordance with the order:

Provided that where the dispute relates to a public utility service and a notice under Section 22 has been given, Government shall unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced,

Provided further that no order made under Clause (d) shall require an employer to observe terms and conditions of employment less favourable to the workmen than those which were applicable to them at any time with in three months preceding the date of the order.

(2) Where the parties to an industrial dispute apply in the prescribed manner whether jointly or separately, for a reference of the dispute to a Board, Court or Tribunal, Government, if satisfied that the persons applying represent the majority of each party shall make the reference accordingly.

(3) Where an industrial dispute has been referred to a Board or Tribunal under this section, Government may by order prohibit the continuance of any strike or lock out in connection with such dispute which may be in existence on the date of the reference.

(4) Government may, by order in writing and for reasons to be stated therein, at any stage transfer any case pending before any Court, Board or Tribunal to another Court, Board or Tribunal, and the Court, Board or Tribunal to which the case is so transferred may, subject to any special directions in the order of transfer, proceed either *de novo* or from the stage at which it was transferred.

CHAPTER IV.

PROCEDURE, POWERS AND DUTIES OF AUTHORITIES.

Procedure and powers of conciliation officers, Boards, Courts and Tribunals.

11. (1) Conciliation officers, Boards, Courts and Tribunals shall subject to the provisions of this Act follow such procedure as may be prescribed.

(2) A conciliation officer or a member of a Board, Court or Tribunal may, for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, Court and Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure for the time being in force, when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;
(b) compelling the production of documents and material objects;
(c) issuing commissi n for the examination of witnesses;
(d) in respect of such other matters as may be prescribed; and every inquiry or investigation by a Board, Court or Tribunal, shall be deemed to be a judicial proceeding within the meaning of Sections 187 and 226 of the Travancore Penal Code or Sections 179 and 214 of the Cochin Penal Code, as the case may be.

(4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute.

(5) With the consent of all parties to the dispute, a Court or Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in the proceedings.

(6) Every conciliation officer and every member of a Board, Court or Tribunal shall be deemed to be a public servant within the meaning of section 15 of the Travancore or Cochin Penal Code.

Duties of conciliation officers.

12. (1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof aud may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4) Government are satisfied that there is a case for reference to a Board or Tribunal, they may make such reference. Where Government do not make such a reference they shall record and communicate to the parties concerned their reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by Government.

13. (1) Where a dispute has been referred to a Board under this Act it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

Duties of Boards.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, Government do not make a reference to a Tribunal under Section 10, they shall record and communicate to the parties concerned their reasons therefor.

(5) The Board shall submit its report under this section within two months of the date of the notice under Section 22 or within such shorter period as may be fixed by Government:

Provided that Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

14. A court shall inquire into the matters referred to it and report thereon to Government ordinarily within a period of six months from the commencement of its inquiry.

Duties of Court.

15. (1) Where an industrial dispute has been referred to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as practicable on the conclusion thereof, submit its award to Government.

Duties of Tribunals.

(2) On receipt of such award, Government shall by order in writing declare the award to be binding:

Provided that where Government is a party to the dispute and in their opinion it would be inexpedient on public grounds to give effect to the whole or any part of the award, they shall on the first available opportunity lay the award together with the statement of their reasons for not making a declaration as aforesaid before the Legislature and shall, as soon as may be, cause to be moved therein a motion for the consideration of the award; and the Legislature may confirm, modify or reject the award.

(3) On the passing of a motion under the proviso to sub-section (2), unless the award is rejected thereby, Government shall by order in writing declare the award as confirmed or modified by the Legislature, as the case may be, to be binding.

(4) Save as provided in the proviso to sub-section (3) of section 19, an award declared to be binding under this section shall not be called in question in any manner.

16. The report of a Board or Court and the award of a Tribunal shall be in writing and shall be signed by all the members of the Board, Court or Tribunal, as the case may be :

Form of report or award.

Provided that nothing in this section shall be deemed to prevent any member of the Board, Court or Tribunal from recording a minute of dissent from a report or award from any recommendation made therein.

17. The report of a Board or Court and the award of a Tribunal, together with any minute of dissent recorded therewith shall, within a period of one month from the date of its receipt by Government, be published in such manner as they think fit.

Publication of reports and awards.

18. A settlement arrived at in the course of conciliation proceedings under this Act or an award which is declared by Government to be binding under sub-section (2) of section 15 shall be binding on—

Persons on whom settlements and awards are binding.

(a) all parties to the industrial dispute ;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board or Tribunal, as the case may be, records the opinion that they were so summoned without proper cause ;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates ;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

19. (1) A settlement arrived at in the course of a conciliation proceeding under this Act shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

Period of operation of settlements and awards.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon for a period of six months and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award declared by Government under section 15 to be binding shall come into operation on such date as may be specified by Government and shall remain in operation for such period, as may be fixed by Government :

Provided that if, of its own motion or on the application of any party bound by the award, Government consider that there has been a material

change in the circumstances on which the award was based they may refer the award to a Tribunal for a decision whether or not the award should by reason of such change, cease to be in operation before the expiry of the period so fixed and the period of operation of the award should be determined by the decision of the Tribunal on such reference.

Commencement and conclusion of proceeding.

20. (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded,—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, when the report of the conciliation officer is received by Government or when the report of the Board is published under section 17, as the case may be; or

(c) when a reference is made to a Court or Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before a Tribunal shall be deemed to have commenced on the date of the reference of a dispute for adjudication and such proceedings shall be deemed to have concluded when the award is published by Government under section 17, or where an award has been laid before the Legislature under the proviso to sub-section (2) of section 15, when the motion of the Legislature thereon is passed.

Certain matters to be kept confidential.

21. There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business whether carried on by a person, firm or company which is not available otherwise than through the evidence given before such officer, Board, Court or Tribunal, if the trade union, person, firm or company, in question has made a request in writing to the conciliation officer, Board, Court, or Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board, Court or Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under Section 187 of the Travancore Penal Code or Section 179 of the Cochin Penal Code.

CHAPTER V.

STRIKES AND LOCK-OUTS.

Prohibition of strikes and lock-outs.

22. (1) No person employed in a public utility service shall go on strike in breach of contract,—

(a) without giving to the employer notice of strike, as hereinafter provided, within one month before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen,—

(a) without giving them notice of lock-out as hereinafter provided within one month before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to Government or to such authority as Government may prescribe the number of such notices received or given on that day.

General prohibition of strikes and lock-outs.

23. No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before a Tribunal and for six weeks after the conclusion of such proceedings; or

(c) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

Illegal strikes and lock-outs.

24. (1) A strike or lock-out shall be illegal if—

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10.

(2) Where a strike or lock-out in pursuance of an Industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board or Tribunal, the continuence of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

Prohibition of financial aid to illegal strikes and lock-outs.

25. No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

CHAPTER VI.

PENALTIES.

Penalty for illegal strikes and lock-outs.

26. (1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues or otherwise acts in furtherance of a lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Penalty for instigation etc.

27. Any person who instigates or incites others to take part in or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes and lock-outs.

28. Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for breach of settlement.

29. If any person commits a breach of any term of any settlement or award which is binding on him under this Act, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation to any person who, in its opinion, has been injured by such breach.

30. Any person who wilfully discloses any such information as is referred to in Section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for discosing confidential information.

31. (1) Any employer who contravenes the provisions of Section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for other offences.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder, shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

(3) Whoever contravenes any order passed under clause (d) of Sub-section (1) of Section 10 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees or with both.

CHAPTER VII.

MISCELLANEOUS.

32. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Offence by companies etc.

33. No employer shall during the pendency of any conciliation proceedings or proceedings before a Tribunal in respect of any industrial dispute, alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings, nor, save with the express permission in writing of the conciliation officer, Board or Tribunal, as the case may be shall he during the pendency of such proceedings, discharge, dismiss, or otherwise punish any such workmen, except for any breach of the conditions of service not connected with the dispute.

Conditions of service, etc. to remain unchanged during pendency of proceedings.

34. (1) No court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence save on complaint made by or under the authority of Government.

Cognizance of offences.

(2) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

35. (1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal

Protection of persons.

representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of dispute in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section and in any such proceedings the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

Recovery of money due from an employer under settlements, awards, etc.

36. (1) Any money due from an employer under any settlement, award or order which is binding on him may be recovered by Government as an arrear or revenue under the Revenue Recovery Act for the time being in force, on application made to Government by the persons entitled to the money under the settlement, award or order, as the case may be.

(2) Where an employee is entitled to receive from an employer any benefit under any settlement, award or order which is capable of being computed in terms of money, the amount at which such benefit should be computed may be determined—

(a) where the benefit is to be received under an order of the court or the award of a tribunal or the proceedings of a board, by that court, tribunal or board; and

(b) in any other case, by such authority as may be prescribed; and the amount so determined may be recovered in the manner provided for in sub-section (1).

(3) Where any amount recoverable under sub-section (1) is not an ascertained sum of money, that amount may be calculated and ascertained by such authority and in such manner as may be prescribed.

Representation of parties.

37. (1) A workman who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this Act by an officer of a trade union in which that workman is a member and any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceedings by an officer of an association of employers.

(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before a Court or Tribunal.

Protection of action taken under the Act.

38. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

39. (1) Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers and procedure of Conciliation officers, Boards, Courts and Tribunals including rules as to the summoning of witnesses, the production of documents relevant to the subject matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards;

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties;

(c) the allowances admissible to members of Courts, Boards and Tribunals and to assessors and witnesses;

(d) the ministerial establishment which may be allotted to a Court, Board or Tribunal and the salaries and allowances payable to members of such establishments;

(e) the manner in which and the persons by and to whom notice or strike or lock-out may be given and the manner in which such notices shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court or Tribunal;

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

40. Government may by order direct that their power under section 3 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by any officer or authority subordinate to Government.

Delegation of Power.

41. (1) The Travancore Industrial Disputes Act, VI of 1124, the Cochin Trade Disputes Adjudication Proclamation, I of 1122, and the Cochin Trade Disputes Act, LXVI of 1112 are hereby repealed:

Repeal and saving.

Provided that such repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect the continuance of any arbitration, conciliation or adjudication proceedings pending immediately prior to the commencement of this Act or the enforcement thereof; or

(f) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Notwithstanding the expiry of the Travancore-Cochin Industrial Disputes Ordanince, 1950 (V of 1950) all orders made, action taken, arbitration, conciliation or adjudication proceedings or other legal proceedings commenced or things done in the exercise of any power conferred by or under the said Ordinance shall, for all purposes, be deemed to have been made, taken, commenced or done in the exercise of the power conferred by or under this Act; and any arbitration, conciliation or adjudication proceedings or other legal proceedings pending immediately prior to the commencement of this Act may be continued or enforced as if this Act had commenced on the 11th day of February 1950.

THE SCHEDULE.

Industries which may be declared to be public utility services under sub-clause (v) of clause (l) of section 2.

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.

2. Cotton textiles.

3. Food stuffs.